Before the

Federal Communications Commission

Washington, D.C. 20554

In the Matter of	)	
	)	
The Pay Telephone Reclassification and Compensation Provisions of The Telecommunications Act of 1996	)	**CC Docket No. 96-128**
	)	
RBOC/GTE/SNET Payphone Coalition Petition for Clarification	)	**NSD File No. L-99-34**

REPLY COMMENTS OF WORLDCOM, INC.
PETITIONS FOR DECLARATORY RULING AND/OR CLARIFICATION OF THE PAYPHONE COMPENSATION SECOND ORDER ON RECONSIDERATION

October 22, 2001

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I. Executive Summary

The changes in payphone compensation obligations contemplated by the Commission's Second Order on Reconsideration are so profound that the Commission should have initiated a rulemaking to ensure that it had solicited all possible alternatives to existing compensation obligations and considered the full range of potential impacts of all proposed alternatives. The Commission ignored WorldCom's request. To make matters worse, the Commission's delay in putting the Petitions for Reconsideration out for public comment until 3 months after the Second Order on Reconsideration was released, has made it impossible for underlying carriers to develop finely nuanced payphone compensation mechanisms before the rules take effect November 23, 2001, Therefore, the Commission should either immediately approve WorldCom or AT&T's proposed policies, or immediately delay implementation of its modified payphone compensation rules until the concerns raised in petitions for reconsideration are equitably resolved.

While nearly all parties recognize that it is technically infeasible for underlying carriers to compensate and report to payphone service providers on the basis of calls completed to the called party, some assert the opposite. Underlying carriers do not receive answer supervision messages from the *called party* in situations where the call is re-originated at the SBR platform. Underlying carriers do receive answer supervision messages from the *prepaid card provider's platform*, but the data contained in these messages are insufficient to comply with the Commission's new reporting requirements.

Switch-based resellers question the magnitude of expenses imposed by the Commission's new rules on underlying carriers. They contend underlying carriers have not attempted to implement the Commission's new requirements, and neither have they presented their findings to the Commission. WorldCom met with the Commission in March of this year and discussed an attempt it had made to implement what turned out to be the Commission's new requirements with a single switch-based reseller customer. In that meeting, WorldCom explained to the Commission that the requirements eventually adopted would multiply its compensation and reporting expenses by at least a factor of 10. WorldCom also explained that its switch based reseller customer disputed WorldCom's estimate of completed calls based on call completion information supplied to WorldCom, and refused to be surcharged on that basis. As a result of this experience, and as a result of recognizing that it faces the largest legal liability as the largest supplier of wholesale service to switch-based resellers, WorldCom rightly concludes that it would be administratively more efficient to compensate on the basis of answer supervision it receives.

The Commission's new rules leave the decision to continue the direct payment arrangements between payphone service providers and switch based resellers to the sole discretion of the payphone service provider. If payphone service providers must affirm whether they wish to continue to be directly compensated by switch-based resellers, underlying carriers cannot rely on representations made by switch-based resellers. It is therefore reasonable for underlying carriers to insist that switch-based resellers verify that payphone service providers have agreed to be directly compensated, and to be indemnified against any future liability for payphone compensation. It is also reasonable for underlying carriers to require switch-based resellers to obtain approval from most payphone service providers before agreeing not to surcharge them for calls sent to their platforms. The Commission made underlying carriers responsible for payphone compensation for calls completed to SBR customers because it determined that it would be administratively efficient if this were the case. In order for these administrative efficiencies to be realized however, underlying carriers must be permitted to rely on economies of scale that make them more efficient. In this context, it means they must be able to require enough PSPs to reach agreement to be directly compensated in order to achieve those scale economies.

Finally, neither AT&T's nor WorldCom's proposals are unduly discriminatory. It is not unreasonably discriminatory to charge an identifiable class of customers a higher charge for serving those customers if there is a cost basis for doing so. Not only has the Commission has consistently identified SBRs as a special class of customers, but it has also clearly expected underlying carriers to incur additional expenses on top of the administrative expenses they were already incurring on behalf of their pure reseller customers.

II. The Commission Should Either Immediately Approve WorldCom Or AT&T's Proposed Actions, Or Immediately Delay Implementation Of Its Modified Payphone Compensation Rules Until The Concerns Raised In Petitions For Reconsideration Are Equitably Resolved

Even before the Commission adopted its new payphone compensation rules, WorldCom met with Commission staffers to explain the technical and administrative infeasibility of placing payphone compensation liability on the underlying carrier.[1] As will be discussed further below, WorldCom also conveyed the technical and administrative infeasibility of handling payphone compensation on behalf of switch-based resellers (SBRs) after attempting to do so with just one of its SBR customers. At that meeting, WorldCom urged the Commission not to place compensation responsibility for SBRs on underlying carriers, but stated that if it found merit in this new role for underlying carriers, the magnitude of changes needed to implement this new role were so significant that the Commission was required to open a rulemaking to consider these suggestions. WorldCom contended that only a rulemaking would give all parties potentially affected by a rule change an opportunity to comment on those changes. This procedural safeguard would ensure that all interested parties would not be surprised to find themselves subject to liability under newly adopted rules. It would also help to ensure that the Commission had engaged in a rational approach to rulemaking that takes account of a diversity of interests and viewpoints.

The Commission chose to ignore WorldCom's advice, and failed to address any of the concerns raised in our Ex Parte presentation in its Second Order on Reconsideration. Predictably, a substantial segment of parties involved in payphone compensation feel they have been saddled with either responsibilities that cannot be implemented, or can only be

[1] Confidential Ex Parte of WorldCom, CC Docket No. 96-128, File No. NSD-L-99-34, filed March 2, 2001.

implemented at significant expense. Underlying carriers find the shift in compensation responsibility and reporting requirements to be unworkable.[2] SBRs find the new reporting requirements to be administratively unnecessary and excessive.[3] The Commission's delay in putting the Petitions for Reconsideration out for public comment until August 20, 3 months after the Second Order on Reconsideration was released, has made it impossible for underlying carriers to develop finely nuanced payphone compensation mechanisms before the rules take effect November 23, 2001, and certainly before the Commission will be able modify its rules in response to Petitions for Reconsideration. Yet, something must be done by November 23.[4] WorldCom or AT&T's proposed policies would allow a workable, equitable, compensation system to be implemented by this date. The Commission should either immediately approve WorldCom or AT&T's proposed policies, or immediately delay implementation of its modified payphone compensation rules until the concerns raised in petitions for reconsideration are equitably resolved.

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[2] Petitions for Reconsideration, CC Docket No. 96-128, File No. NSD-L-99-34, filed May 29, 2001 of: WorldCom at 2; AT&T at 2 , and Global Crossing at 4; Request of Sprint Corp. for a Stay of the Second Order on Reconsideration and Revised Final Rules Pending Judicial Review, CC Docket No. 96-128, File No. NSD-L-99-34, filed May 25, 2001;

[3] See e.g., Comments of IDT at 19, Association of Communications Enterprises at 16; IPCA at 13; Century Tel at 7; TelStar at 16; and CommuniGroup at 15.

[4] Contrary to representations by some commentors, WorldCom has not implemented its proposals prior to the effective date of the new reporting requirements. Because the April 27, 2001 Federal Register listed the effective date of the rules as April 27, 2001, WorldCom initially believed reporting requirements would take effect October 27. WorldCom initially intended to implement its new payphone compensation and surcharge policy as of October 1, 2001. The Commission's August 20, 2001 Public Notice, DA 01-1967, clarified that the effective date of the rules was May 27, 2001, with reporting requirements becoming effective November 23, 2001. After learning of this change, WorldCom now intends to implement its new surcharge policy as of December 1, and informed its customers of this change September 21, 2001.

III. The New Payphone Compensation Rules Are Both Technically And Administratively Infeasible

A. The New Payphone Compensation Rules Are Technically Infeasible

In its Comments to Petitions For Reconsideration, WorldCom explained that when a payphone call is routed to a platform and is subsequently re-originated with a new number, underlying carriers do not receive answer supervision messages from the called party's terminating switch that would permit the underlying carrier to fulfill its new reporting requirements. While most parties agree that this is so, CommuniGroup maintains that except for instances where SS7 is not available through the calling path, underlying carriers do receive answer supervision messages from the called party, and are therefore able to comply with the Commission's new reporting requirements.[5] CommuniGroup also maintains that underlying carriers' ability to bill for calls handed off to prepaid card providers shows they receive answer supervision messages.

CommuniGroup is simply wrong that underlying carriers receive answer supervision messages from the *called party* in situations where the call is re-originated at the SBR platform. They do receive answer supervision messages from the *prepaid card provider's platform*, but the data contained in these messages are insufficient to comply with the Commission's new reporting requirements. When a call is initiated from a payphone, the call is set up with an initial address message (IAM) that routes the call to the switch of an underlying carrier. If the number dialed is an 8XX number leased to a prepaid card provider, the call is routed to their platform and answered. Underlying carriers' switches then receive an Address Completed Message

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[5] CommuniGroup of K.D., Inc., CommuniGroup of Jackson, Inc., NTS Communications, Inc., Transtel Communications, Inc., Tel America of Salt Lake City, Inc., national Network Corporation and Extelcom d/b/a/ Express Tel, ("CommuniGroup") at 10.

(ACM), and then are instructed to hold the circuit open. WorldCom begins billing the prepaid card provider after receiving the ACM. Once the circuit has been established, the prepaid card platform is able to instruct the calling party to enter a PIN and the number of the called party. The call is then re-originated from the prepaid provider's platform. The platform switch sends the call on its second leg, and if completed, the *platform switch* receives an Answer Message (ANM) that it has been completed. However, that message is not transmitted back across the platform provider's switch to the underlying carrier's switch. The prepaid provider therefore knows the number dialed to reach the called party. The underlying carrier does not receive this information, and is therefore incapable of automatically being able to report completed payphone calls by toll-free number, as required by Section 64.1310(a) of the new payphone compensation rules.

Existing switches designed to interact with SS7 messages do not permit underlying carriers to receive more than one "completed message" per call.[6] Once an underlying carrier switch receives confirmation that the platform has answered, it begins billing. The underlying carrier does not know what happens to the call after that point. The caller may be replenishing their card at the platform, or the caller may be talking to their mother. In either case, the underlying carrier's answer supervision indicates the call is completed. In the first case, the call would not be considered completed to the called party, but the underlying carrier is unable to distinguish this type of call from calls made to calling party relatives. Once the "relative" has

[6] WorldCom is not maintaining that two calls are occurring. WorldCom is simply maintaining that since the one call is re-originated, it does not receive answer supervision messages that would permit it to automatically determine whether a call has been completed to the called party. By the same token, when calls routed to SBRs are not re-originated, underlying carriers do receive answer supervision messages from the called party. WorldCom will compensate and surcharge based on calls completed to the called party in this situation – i.e. according to answer supervision messages received by the underlying carrier.

finished talking, the prepaid provider's platform switch receives a message to release the line. The platform relays this message back to the underlying carrier, but this "release" message does not contain information about the called party's number. Once the underlying carrier receives the "release" message it terminates billing. In summary, underlying carriers do not receive answer supervision messages from the called party, and so their ability to utilize these messages to accurately meet their payphone compensation responsibilities is technically infeasible.

B. The New Payphone Compensation Rules Are Administratively Infeasible

WorldCom's Comments on Petitions for Reconsideration identified the scale by which its payphone compensation expenses would increase under the Commission's new payphone compensation regime.[7] All parties agree that the existing requirements are more extensive than may be needed. PSPs and underlying carriers agree that if AT&T or WorldCom's handling of completed calls is accepted, reduced reporting requirements would be sufficient.[8] Prepaid card providers also maintain that the new reporting requirements will impose on them unnecessary costs.[9]

Even though they too object to the increased expenses of the new reporting requirements, prepaid card providers fail to offer plans that would address the primary cause of the failure of the previous compensation regime, namely their inability to convince PSPs that their completed call data was reliable. Instead they would have the Commission revert to the *status quo ante*. If WorldCom believed that the Commission and PSPs would rely on prepaid card provider proclamations that they would now supply reliable data and work in good faith with underlying

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[7] WorldCom at 4-6, 11-13.

[8] Qwest at 8, AT&T at 3, APCC at 6, RBOC Payphone Coalition at 11; WorldCom at 11.

carriers to resolve questionable data in a timely fashion, and indemnify underlying carriers from any future liability associated with SBR compensation on the basis of that proclamation, WorldCom would not have been compelled to propose compensating PSPs in a way that would eliminate disputes between PSPs and data supplied by prepaid card providers.

Instead of offering alternatives that promise to convince PSPs they will receive the proper amount of payphone compensation, prepaid providers devote their efforts to lambasting a broad principle which underlying carriers and PSPs share in common: the administrative efficiency of compensating PSPs for all calls handed off to prepaid card providers and reporting completed calls according to four categories of calls.[10]

Prepaid card provider claims that WorldCom has not attempted to implement a system of manual feeds of completed call data supplied by prepaid card providers are untrue. WorldCom has explored the feasibility with one such provider and reported its results to the Commission last March.[11] In that meeting WorldCom explained the reasons why it expected its annual payphone compensation expenses to increase by at least a factor of 10 if the Commission made underlying carriers responsible for SBR payphone compensation, and that this increased expense would be caused solely by the need to manually verify and audit call completion data supplied by its prepaid card provider customers.

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[9] IPCA at 13-14, Flying J at 12; Century Tel at 6-7; TelStar at 16; CommuniGroup at 14.

[10] See APCC at 2, WorldCom at 6, RBOC Coalition at 5, AT&T at 2. Although Global Crossing's solution is different, it too has developed a proposal that would eliminate uncertainty about call completion data supplied by prepaid card providers See Global Crossing Petition for Reconsideration, arguing for "bright-line" distinctions, filed May 29, 2001 at 6.

[11] Confidential Ex Parte of WorldCom, CC Docket No. 96-128, File No. NSD-L-99-34, filed March 2, 2001.

WorldCom explained that we approached one of our SBR customers to determine the feasibility of compensating PSPs on their behalf from call completion records that would be supplied by the SBR. WorldCom had a record of calls sent to the SBR, and requested files of incomplete calls by payphone ANI and number dialed to the end user from the SBR. Because WorldCom did not receive answer supervision data from the called party that matched the answer supervision data it had concerning calls completed to prepaid provider platforms, we were required to match the time every call from each PSP phone that was sent to a prepaid platform with the time of all incomplete calls contained in the answer supervision data of the SBR for each payphone. WorldCom then subtracted the number of incomplete calls, so determined, from calls sent to the SBR to determine the number of completed calls it would compensate. The number was considerably higher than what the SBR was willing to compensate for, and WorldCom was unable to continue with the experiment. On the basis of this experience, WorldCom reported to the Commission that its administrative expenses would increase at least 10-fold if the Commission were to require underlying carriers to rely on data feeds supplied by the SBR customers.[12]

WorldCom believes the reported administrative difficulty was understated, since it did not consider the possibility of chain dialing, where a call completed to one prepaid provider platform was sent to other platforms and resellers before completing to the called party. Matching all calls sent by payphone by time of day through the chain of possible platform providers would be a very time consuming and daunting task. In addition, our estimate of increased expenses did not consider the interest expenses associated with having to delay

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[12] Id.

payphone compensation for one or more quarters in case our reseller customers did not provide call completion data on time, or failed to respond to our inquiries or audits on time. Neither did our estimate of increased expenses include uncollectibles associated with SBRs who disputed the levels of billed surcharges, or from SBRs who were no longer in business. In addition, our estimate of increased expenses did not consider the cost impact of law suits from PSPs that would arise from the continuing unreliability of call completion data supplied by prepaid provider customers. It is possible that another underlying carrier, more willing to face legal risk than WorldCom, may be able to compensate on behalf of its SBRs at a lower administrative cost. However, because WorldCom currently has more SBR customers than any other underlying carrier, it faces a substantially higher legal risk now that the Commission has placed ultimate legal liability on underlying carriers to compensate PSPs on behalf of their SBRs. Consequently, WorldCom feels compelled to develop practices and procedures that develop and then utilize the best information available within its control to efficiently manage financial risk to the company.

IV. Underlying Carriers And PSPs Agree That Underlying Carriers Should Be Able To Manage The Risk They Face When SBRs Claim To Have An Agreement To Directly Compensate PSPs

Prepaid card providers contend the Second Order on Reconsideration permits them to continue existing arrangements to compensate PSPs directly, without obtaining approval from the PSPs involved.[13] In support of this interpretation, they cite paragraph 9 of the Order, which states that the underlying carrier is responsible for compensation unless "…another carrier comes forward and identifies itself to the PSP as the party liable for compensating the PSP." This formulation does not appear in the new rules. Section 64. 1310(b) leaves the decision to continue the direct payment arrangements between PSPs and SBRs to the sole discretion of the

PSP, stating that these arrangements may continue "…if the payphone service providers so agree."

Rule language clearly takes precedence over expository language in an Order. If PSPs must affirm whether they wish to continue to be directly compensated by SBRs, underlying carriers cannot rely on representations made by SBRs. It is therefore reasonable for underlying carriers to insist that SBRs verify that PSPs have agreed to be directly compensated. It is also reasonable for underlying carriers to be indemnified against any future liability for payphone compensation. Underlying carriers and PSPs support this view.[14]

SBRs also object to WorldCom and Global Crossing's proposal to require SBRs to show they have obtained agreements to directly compensate most PSPs.[15] In evaluating this and other issues in this proceeding, the Commission should ensure that it gives underlying carriers the tools to carry out their new compensation responsibilities in an administratively efficient manner. The Commission made underlying carriers responsible for payphone compensation for calls completed to SBR customers because it determined that it would be administratively efficient if this were the case. The Commission reasoned that PSPs would have to deal with only a few underlying carriers, rather than many resellers. Underlying carriers in turn had established relations with their reseller customers.[16]

In order for these administrative efficiencies to be realized however, underlying carriers must be permitted to rely on economies of scale that make them more efficient. In this context,

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[13] IPCA at 9; CommuniGroup at 14; IDT at 46, Ad Hoc Resellers at 6; One Call at 6)

[14] RBOC Coalition at 9, Bulletins at 8; AT&T at 4; WorldCom at 9; Global Crossing at 10.

[15] See e.g., IDT at 28.

[16] Second Order on Reconsideration at paras. 15-16.

it means they must be able to require enough PSPs to reach agreement to be directly compensated in order to achieve those scale economies. Having to segregate the traffic coming from just a few payphones to just a few 8xx numbers would destroy the efficiencies that were the basis of the Commission's shifting of compensation responsibility to underlying carriers.

V. PSPs And Underlying Carriers Agree It Would Be Equitable For SBRs To Bear The Additional Administrative Costs Associated With The New Requirement For Underlying Carriers To Compensate PSPs On Their Behalf

Prepaid Card Providers argue that it would be discriminatory to either surcharge them on the basis of calls completed to their platforms, or for the higher administrative costs associated with underlying carriers' new administrative responsibilities.[17] It is not unreasonably discriminatory to charge an identifiable class of customers a higher charge for serving those customers if there is a cost basis for doing so. The Commission has consistently identified SBRs as a special class of customers.[18] The Commission also clearly expected underlying carriers to incur additional expenses on top of the administrative expenses they were already incurring on behalf of their pure reseller customers.[19] Moreover, as Bulletins points out, WorldCom and AT&T's proposal would undercharge SBRs for multiple completed calls from the same platform that are generated by hitting the "#" key. In short, AT&T and WorldCom's proposals are not unduly discriminatory and are completely justified in light of new legal mandate placed on underlying carriers.

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[17]See e.g., IPCA at 5, IDT at 23, Century Tel at 11; TelStar at 4.

[18] Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Order on Reconsideration, CC Docket No. 96-128, November 18, 1996 at para 92; Memorandum Opinion and Order ("Bureau Coding Digit Waiver Order"), April 3, 1998 at para 38.

[19] Second Order on Reconsideration at paras. 15, 18, 20, 21.

IV. Conclusion

WorldCom urges the Commission to adopt the positions advocated herein.

Sincerely,

Larry Fenster

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Statement of Verification

I have read the foregoing and, to the best of my knowledge, information and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct.

Executed on October 22, 2001

Larry Fenster

Larry Fenster